



WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

COPY MAILED

MAY 14 2008

OFFICE OF PETITIONS

In re Application of
Cook et al.
Application No.10/796,949
Filed: March 10, 2004
Attorney Docket Number: 71239

DECISION

This is in response to the petition under 37 CFR 1.47(a), filed March 5, 2008.¹ In the alternative, petitioner has requested treatment under 37 CFR 1.183.

In response to the September 13, 2007 non-final Office Action, petitioner has submitted a petition under 37 CFR 1.47. The non-final Office action required a new oath or declaration because a date was not provided next to the signature of Henry Steinberg on the March 10, 2004 declaration. Petitioner states that inventor Henry Steinberg has refused to execute a supplemental declaration.

A review of the March 10, 2004 declaration shows that the executed declaration does not contain a date. However, a date is no longer required on a declaration. Pursuant to MPEP 602.05:

The Office no longer checks the date of execution of the oath or declaration and the Office will no longer require a newly executed oath or declaration based on an oath or declaration being stale (that is when the date of execution is more than 3 months prior to the filing date of the application) or where the date of execution has been omitted. However, applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56

¹Once an application has received a properly executed oath or declaration and such has been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

Accordingly, the petitions are **Dismissed As Moot**

Deposit account 08-0219 will be refunded the \$200.00 petition fee.

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Charlema R. Grant', with a stylized flourish at the end.

Charlema R. Grant
Petitions Attorney
Office of Petitions